

No. 13-2073 PO

On August 30, 2014, the case was transferred to Commissioner Karen A. Winn, who, having read the full record including all the evidence, renders the decision. Section 536.080.2,

RSMo 2000;¹ *Angelos v. State Bd. of Regis'n for the Healing Arts*, 90 S.W.3d 189 (Mo. App., S.D. 2002).

Findings of Fact

1. On November 7, 2013, the Director received Wright's application for a Class D license as a reserve officer.

2. Wright's application lists his basic law enforcement training as follows: St. Louis County and Municipal Police Academy – 172 hours; and St. Louis City Police Academy – 186 hours. With the application, Wright supplied evidence of the 172 hours, but not of the 186 hours.

3. Wright's application lists his law enforcement employment history as follows: Pine Lawn Police Department from August 2001 to November 14, 2001; Ferguson Police Department from July 16, 1996 to June 30, 1999; and St. Louis City Police Department from June 1975 to March 1976.

4. Wright's application includes verification that he worked as a reserve officer at the Ferguson Police Department. The verification of work at the St. Louis City Police Department does not specify whether Wright worked as a reserve officer or a full-time officer.²

5. Wright's application does not include verification from a law enforcement agency that he has served as a reserve officer with the Pine Lawn Police Department.

6. Kimberly Haddix, Licensing Supervisor for the Peace Officer Standards and Training Program, contacted the Pine Lawn Police Department, but no one at that department could confirm that Wright had ever had a commission there.

¹ Statutory references, unless otherwise noted, are to the 2013 Supplement to the Revised Statutes of Missouri.

² A reserve peace officer is a peace officer who "regularly works less than thirty hours per week." Section 590.010(5).

7. Haddix informed Wright that she needed confirmation of his employment at the Pine Lawn Police Department, but he never supplied this to her.

8. On August 27, 2001, Wright was not serving as a reserve officer within a county of the first classification or a county with a charter form of government and with more than one million inhabitants.

9. The Director denied Wright's application because he was unable to verify that Wright was a reserve officer with the Pine Lawn Police Department or any other police department within a county of the first classification or a county with a charter form of government and with more than one million inhabitants on August 27, 2001.

Conclusions of Law

We have jurisdiction to hear Wright's complaint. Section 621.045. As the applicant, Wright has the burden to show that he is entitled to licensure. Section 621.120, RSMo 2000. We decide the issue that was before the Director, *Department of Soc. Servs. v. Mellas*, 220 S.W.3d 778 (Mo. App., W.D. 2007), which is the application. We exercise the same authority that has been granted to the Director. *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20 (Mo. banc 1990). Therefore, we simply decide the application *de novo*. *State Bd. of Regis'n for the Healing Arts v. Finch*, 514 S.W.2d 608, 614 (Mo. App., K.C.D. 1974). When an applicant for licensure files a complaint, the agency's answer provides notice of the grounds for denial of the application. *Ballew v. Ainsworth*, 670 S.W.2d 94, 103 (Mo. App., E.D. 1984).

This Commission must judge the credibility of witnesses, and we have the discretion to believe all, part, or none of the testimony of any witness. *Harrington v. Smarr*, 844 S.W.2d 16, 19 (Mo. App., W.D. 1992).

Peace officers are licensed by the Peace Officer Standards and Training Commission ("POST"), which has the authority to set the minimum hours of basic training required for

licensure as a peace officer in Missouri. Section 590.040.1. In general, at least 470 hours are required, but § 590.040.1(5) establishes a minimum of 160 hours for certain reserve officers:

Persons serving as a reserve officer on August 27, 2001, within a county of the first classification or a county with a charter form of government and with more than one million inhabitants on August 27, 2001, having previously completed a minimum of one hundred sixty hours of training, shall be granted a license necessary to function as a reserve peace officer only within such county. For the purposes of this subdivision, the term "**reserve officer**" shall mean any person who serves in a less than full-time law enforcement capacity, with or without pay and who, without certification, has no power of arrest and who, without certification, must be under the direct and immediate accompaniment of a certified peace officer of the same agency at all times while on duty[.]

The Director argues that Wright has not met the requirement of proving that he was a reserve officer on August 27, 2001, within a county of the first classification or a county with a charter form of government and with more than one million inhabitants on August 27, 2001. We agree.

Wright's evidence consists of his testimony that he did work for the Pine Lawn Police Department at the relevant time. But his evidence is not credible in light of that which was offered in opposition to it. Wright presents us with newspaper articles, a campaign flyer, a page from a 2013 City of Pine Lawn calendar, a City of Pine Lawn construction permit, and several City of Pine Lawn and Pine Lawn Police Department business cards that do not bear his name. Although Wright testified that he was a reserve officer there, when POST's staff attempted to get confirmation of this from the Pine Lawn Police Department, it was unable to confirm that he had ever served as a reserve officer there, and provided an affidavit stating there was no record of any such service. In addition, Wright admitted that he had been given no documentation from the City of Pine Lawn or the Pine Lawn Police Department authorizing him to act as a reserve police officer.

Wright failed in his burden of proving that he is qualified for licensure under § 590.040.1(5).

Summary

We deny Wright's application for licensure as a Missouri Class D reserve peace officer.

SO ORDERED on September 22, 2014.

/s/ Karen A. Winn

KAREN A. WINN
Commissioner